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1 both Mr. Hanly and I discussed in our direct exams.

2 Q. Now, the way this works in your forecast is a, I think as
3 we've just discussed, beginning in the first period of your
4 forecast the fall of 2001, you had assigned a little bit north
5 of \$6,600 in value to each non-malignant claim, correct?

6 A. Well, the average of it. Some would be more, some less,
7 of course, it's an average. But on average that's the amount,
8 yes.

9 Q. And your forecast is based on averages. Of course you
10 don't value individual claims, you assign an average value,
11 right?

12 A. I was just -- you were asking me if I assigned that to
13 every claim. Of course I don't. Some are worth less, some
14 are worth more, but the average is \$6,600.

15 Q. So a non-malignant claimant who settled prior to the
16 bankruptcy on average in 2001 would receive \$1,296. But for
17 purposes of your forecast, a non-malignant claimant that
18 hadn't settled in 2001 would be assigned \$6,600 in value, is
19 that right?

20 A. I wouldn't put it quite that way. Among the claims the
21 peculiar claims that were settled in 2001 the average
22 settlement was 1,296 because 85 percent of them were
23 Mississippi claim that were settled for \$300. Your question
24 seems to imply generality, it's probably unfounded.

25 Q. But nonetheless the average is 1,296, right?

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1 A. There's no doubt about that in my mind.

2 Q. Let's just go back to Plaintiff's a, your report?

3 A. I'm still there.

4 Q. Good. And again, looking at the non-malignant Table 1B,
5 even if we go back to the year 2000, the average T&N
6 settlement was a little bit north of 3,200, correct?

7 A. That's right.

8 Q. So you are still paying more than double. If even if we
9 look at 2000 versus your forecast, you're still assigning more
10 than twice the value that a claimant would have received in
11 2000, on average again, is that right?

12 A. Yes, twice the -- in 2000, that's correct.

13 Q. Overall, your forecast allocates almost half of its value
14 to non-malignant claimants, right? I believe that's Slide 45.

15 A. Yes, I think that's correct. There's like 45 or 47.2
16 percent.

17 Q. Now, Dr. Peterson, you've told the Court that you derived
18 your forecast values from the scheduled values in the trust
19 distribution procedures that have been proposed in this case,
20 correct?

21 A. I wouldn't put it that way. I derived values that I
22 described in my testimony, I derived a range of values and
23 then I used the trust distribution values with an adjustment
24 for inflation as a conservative alternative of it. But I have
25 a whole derivation of values in my report and selected to use

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1 a number that was more conservative in derivation.

2 Q. Let's skip to Slide 19 in your presentation, Plaintiff's
3 4?

4 A. I have that.

5 Q. This is step three of your calculation of T&N's
6 settlement averages. And what it shows is that you have the
7 disease average reported here in the center column, correct?
8 Those are the numbers, those are the scheduled values from the
9 trust distribution procedures?

10 A. Those are the scheduled values. They're not the averaged
11 values but the scheduled values.

12 Q. And then you have the numbers in red in the right-hand
13 column, which are -- that is the product of the disease
14 average column, that is the TDP scheduled values multiplied by
15 your percentage paid rate, correct?

16 A. I'm sorry, Slide 19? No, that's not correct.

17 Q. How did you get from 200 to 189?

18 A. These are both -- the red is an average settlement dollar
19 without, rather than the average resolution dollar, it does
20 not include the reduction for the percent of claims paid. It
21 is the disease averages, as I testified, are on 2005 dollars
22 from the TDP and I took out four years of inflation to get to
23 2001 because that's the time at which I'm evaluating. It's my
24 understanding the Court would want to value these in terms of
25 2001 dollar at the time of 2001 at the time of the bankruptcy.

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1 Q. Understood. I apologize. I missed that.

2 So the \$189,036 for mesothelioma, to get your average
3 resolution cost in your forecast, you then multiplied that
4 number by your percentage paid, right?

5 A. That's correct.

6 Q. So these are -- the column 2001 dollars is your inflation
7 adjusted, you actually backed out the factor of inflation
8 average settlement value, right?

9 A. Two responses to that if you don't mind.

10 Q. Sure.

11 A. One is the specific calculation is done in the manner in
12 which you said. But what it really represents is a
13 conservative low estimate of what I believe to be the values
14 that Turner & Newall would have to pay at this point in time.
15 There's -- because of the matters that I discussed in my
16 direct examine, there's uncertainties about how much this
17 company would have to pay in the future. You can't simply go
18 back and calculate what they just paid in the last year and
19 say, oh, they're going to pay that in the future because of
20 the matters that I discussed, the expectation, reasonable
21 expectation is they would pay more. So we don't have a
22 precise calculus of that. It could be a bit more, it could
23 be a bit less. I think it's likely to be perhaps quite bit
24 more than I forecast here. So any particular number I put in
25 here is really a precise number I use for my calculation of a

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1 value that could fall within a fairly wide range, not much
2 lower than this but could be considerably higher. In fact, I
3 don't think any lower than this. So I picked the lowest
4 number within that reasonable range and that's what this
5 represents.

6 Q. Now, you said that the number going forward, the average
7 resolution cost going forward generally should be higher than
8 that observed in the last actual year of data, is that what
9 you said?

10 A. It's my expectation, although, in fact, the lung
11 cancer/Mesothelioma numbers are almost precise, the same that
12 Turner & Newall did actually pay in 2001 when we're certain
13 they really, I mean what they settled in 2001, when we know
14 that was the actual settlement date. So again, on the basis
15 of conservatism, I think perhaps the numbers should be higher
16 than this but, in fact, it corresponds to the most recent
17 settlement for mesothelioma and lung cancer, the kinds of
18 cases that are being looked at most closely by Turner & Newall
19 in the period between leaving CCR and entering bankruptcy.

20 Q. Now, that's a conclusion that you came to as a matter of
21 your own personal judgment, correct?

22 A. I can only testify from my own expert judgment.

23 Q. Right. It's not a forecasting principle, that is, you
24 don't, as a matter of forecasting principles, you don't
25 automatically start with the last year and go up from there,

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1 correct?

2 A. There is no forecasting principle with regard to this.
3 What you do is you try -- and you have to use your expert
4 judgment and your knowledge about the litigation environment
5 in order to state what you think is the most likely payments
6 that someone would have to do, that's the forecasting
7 principle. And one of the ways to test is that reasonable and
8 plausible is to see if your forecast payments in the future,
9 how they correspond what they're paying at the time of the
10 bankruptcy. So that's a test of, its sensibility. And so
11 those are both forecasting principles but the primary one is
12 you have to use your judgment and your knowledge about the
13 area.

14 Q. Let's go back to the TDPs for a second. And one of the
15 reason you chose to use TDP values to start with for the
16 derivation of your average settlement values for the forecast,
17 is that you believed that those were numbers that had been
18 established by the proponents of the bankruptcy plan, correct?

19 A. I think I mentioned that in my report, but that's a
20 secondary consideration.

21 Q. In fact, you testified on direct that in coming up with
22 your calculation of average settlement values for the
23 forecast, you spoke with various members of the asbestos
24 claimants committee in this case, is that right?

25 A. I spoke with them. And I also spoke with lawyers from

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1 the Hanlon law firm. Both, I spoke with both sides. The
2 people that have the most intimate knowledge about the values
3 of claims are not people like me, they're the people that
4 actually have to settle them. So as I -- when I have the
5 opportunity to do so, I speak with plaintiff and defense
6 lawyers about values and what they think about the reasonable
7 range of values are and I bounce numbers off of them. So I
8 spoke with lawyers on both sides.

9 Q. I believe what I heard you say yesterday was that you had
10 a discussion with members of the asbestos claimants committee
11 in this case where one or more of those members suggested to
12 you that an appropriate way to derive values for the trust
13 distribution procedures in this case would be to hang the
14 values of lung cancer claims, other cancer claims, and
15 non-malignant claims on the mesothelioma values, is that
16 right?

17 A. I had conversations both with members of the committee
18 and with Mr. Inselbuch who represents the committee about
19 using that method and it's appropriateness, yes.

20 Q. And, in fact, one of the committee members suggested to
21 you that that method be used, is that right?

22 A. No, not -- it was the committee as a whole recommended
23 that.

24 Q. Let me just get you to turn, if I could, to Property
25 Damage Exhibit 93 in your binder.

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- 1 A. I have it.
- 2 Q. Do you recognize Exhibit 93 as the list of the members of
- 3 the asbestos claimants committee in these bankruptcy cases?
- 4 A. I recognize the names of the counsel who represented the
- 5 members. I don't know that I've ever met any of the
- 6 particular members.
- 7 Q. It would be fair to say the members themselves don't
- 8 typically attend committee meetings, is that right?
- 9 A. I don't -- I don't know. I think I've maybe been to one,
- 10 at most two committee meetings in this case. In other cases
- 11 sometimes the committee members -- the plaintiffs themselves
- 12 who are appointed as the committee members participate and
- 13 others they don't and I don't know the general practice here.
- 14 I think it's more likely than not that their representative
- 15 attend the meeting but I can't say for sure.
- 16 Q. These individuals, they would generally participate
- 17 through their counsel, is that fair to say, in terms of any
- 18 action you have had with the committee?
- 19 A. They rely on their counsel who know a lot more about
- 20 these issues typically.
- 21 Q. Now, in this meeting that you were discussing where the
- 22 committee decided to hang the values for the other diseases on
- 23 the mesothelioma values, which representatives of members of
- 24 the committee participated, do you recall?
- 25 A. I don't -- this happened mostly through correspondence.

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1 I sent suggestions of values, I think I got some e-mails from
2 members, spoke on the phone to members. I don't recall
3 whether or not I attended a meeting to discuss trust
4 distribution values in this case. I go to a number of those
5 meetings, I may or may not have, so I can't recall that. I
6 did discuss this issue, I believe, with some of the members
7 and then Mr. Inselbuch sent me a letter expressing the
8 specific request that the committee had asked him to make of
9 me. That's kind of chronology of the events and what I can
10 recall about it.

11 Q. Is it your understanding that often different members of
12 an asbestos claimants committee will represent or advocate the
13 interests of a particular category of asbestos claimants?

14 A. They have different points of view.

15 Q. That is, there are people who would advocate the
16 interests or try and advance the interests of mesothelioma
17 claimants, correct?

18 A. I don't think I would say it that way. If I did, I'd
19 probably get into trouble, because the plaintiffs' lawyers,
20 each of them represent a range of claimants, they have
21 mesothelioma claimants and they have other claimants and their
22 obligation is to represent the interests of all of their
23 claimants. All I can say is the members have different points
24 of view for whatever reasons.

25 Q. Let's just flip back to demonstrative No. 10 on the

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1 screen again.

2 A. You're back into my binder?

3 Q. No, this will come up on the screen in just a second.

4 We talked about the nonmalignant on the right-hand
5 side. Let's just move right to left. Other cancer, the
6 average value as calculated for 2001 was \$4,590, correct?

7 A. That was the average settlement amount agreed to by
8 Turner & Newall, and I think it was a couple dozen other
9 cancer plaintiffs in 2001. That's the number, yeah.

10 Q. And then the average value that you used in your forecast
11 is \$13,941, right?

12 A. Correct.

13 Q. 204 percent increase right?

14 A. I assume that that's correct.

15 Q. And then lung cancers, again \$18,956 is the actual
16 information and 30,246 is your forecast average value,
17 correct?

18 A. Well, 18,956 is the number that I presented in my report,
19 I think it's probably not a correct number. I would be more
20 inclined to accept the numbers that were discussed both in my
21 deposition materials I sent you and rebuttal report that
22 exclude, that include the pre-'92 settlements, which is in the
23 range of maybe 23,000 to 30,000, but that was in my report.
24 It's one way to calculate this certainly.

25 Q. This is the number that actually came out of your report

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1 right?

2 A. The first report. Subsequent reports, when I did further
3 analysis and looked more at these numbers thanks to the
4 questions you were asking me at the depositions and in
5 response to Dr. Cantor's work, I looked more closely at it and
6 I'm more comfortable with the latter numbers. But this is a
7 number I used and presented my report and it's a sensible
8 calculation of the average certainly.

9 Q. And then finally mesothelioma \$138,939 actual as you
10 calculated it in your initial report. At \$189,036 as
11 calculated in your forecast, right?

12 A. Yes.

13 Q. Projected in your forecast?

14 A. Yes, those numbers are the, I think, both the
15 mesothelioma and lung cancer numbers are reflected on Exhibits
16 20 and 21 where I show my materials demonstrative where I
17 show the trends and the settlements and show the three
18 alternative ways of calculating it. But those are one of the
19 numbers that's included in that graphic.

20 Q. Turn, if you would, Dr. Peterson, to Slide 15 in your
21 presentation. Exhibit 4, Plaintiff's 4?

22 A. Yes, I have that.

23 Q. Now, what you do here is you calculate an average
24 mesothelioma settlement \$210,291, right?

25 A. Yes.

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1 Q. That's not an actual number, that's again your adjusted
2 number, right?

3 A. Forecasted number. It's sort of based upon two
4 parameters in the Turner & Newall's settlement data, that's
5 the number that I calculated and estimate is an appropriate
6 forecasting number for what they have to pay in 2001 and 2002.

7 Q. And the way you get that is you calculate an average for
8 '97, '98, right?

9 A. I start with that, yes.

10 Q. And you calculate an average for 2000 to 2001, right?

11 A. Yes.

12 Q. And then you determine that that's a 214 percent change,
13 is that right?

14 A. Yes. And divide the '98 by the 45 and you get 2.14.

15 Q. That's right. So you multiply 2.14 times your calculated
16 average for 2002, 2001 and that takes it up to 210,291?

17 A. Right, that's the next step, the second bullet.

18 Q. In arriving at your necessary average using your
19 forecast, you don't actually use the 210,291, do you?

20 A. I use a more conservative number that we've already
21 discussed.

22 Q. You refer to the TDP that was agreed by the numbers of
23 committee, right?

24 A. No, I actually use a number lower than the TDP, it's
25 \$189,000.

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1 Q. Because you back out inflation?

2 A. That's the calculation. But I use 189,000, yes.

3 Q. Now, you've characterized the use of the 98,246 number as

4 conservative, is that right?

5 A. 98,267.

6 Q. 267, I'm sorry?

7 A. I would say it's more than conservative, I think it's

8 inappropriate. Conservative in this calculation, yes. I'm

9 sorry. It is a conserve number to use in these steps, that's

10 correct. It's one of two types of conservatives in arriving

11 at the 210.

12 Q. You suggested to the Court that it was conservative

13 because if you look only at the 2001 claims in the database

14 that have been designated in the database as settled in 2001,

15 you come up with an average of 194,000 plus a little bit,

16 right?

17 A. Yes. But also when you compare it with 138,000, which is

18 the average for all the claims, all the settlements that we

19 either know are actually or those I've imputed by either

20 terms. The 98,000 is a conservative number. It doesn't

21 represent where they actually ended up before they went into

22 bankruptcy. And the 194 and the 138 are alternative estimates

23 of what would happen outside of CCR. The 98,000 represents --

24 actually is -- it's more heavily weighted for settlements

25 within CCR. So that's another reason why the 2001 number is a

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1 more appropriate basis for forecasting the future liabilities.

2 Q. Let's talk about 138,939 for a second. That's the number
3 that was reported in your initial report as the calculated
4 average for 2001, right?

5 A. Yes.

6 Q. When I took your deposition back in December of last
7 year, I'm pretty certain I asked you how that number was
8 calculated and you told me that what you did was you took the
9 expense year.

10 A. I'm sorry, when?

11 Q. This would have been your deposition in December of last
12 year.

13 A. I think that's correct. I think you're correctly
14 recounting what the deposition was, but the answer was
15 incorrect and I apologize for that.

16 Q. So at the time you gave your deposition in December of
17 last year, you were under the impression that the method for
18 determining the actual average settlement value for 2001 was
19 to look in the database and figure out which settlements had
20 been paid in 2001, is that right?

21 A. That's what I answered. I don't recall sitting here now
22 what my impression is, but that was my answer. I don't know
23 that it -- I might have been ill-prepared to answer that
24 question. There's lots of issue that go into the bankruptcy
25 and, frankly, I -- was, I don't believe I had -- I certainly

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1 didn't understand it. At the time I probably had not thought
2 much about that particular issue but I answered it
3 incorrectly.

4 Q. Turn, if you would, to Property Damage Exhibit 92 in your
5 binder.

6 A. I have to reorient myself a little bit.

7 Q. Take your time.

8 You have a bigger desk than I do, you have an
9 advantage.

10 A. The perks of being a witness.

11 I have it and I'm balancing it here.

12 Q. I'll represent to you, Dr. Peterson, this is a document
13 that you produced to us after your more recent deposition when
14 we asked for some backup information about how you had
15 calculated your average, actual average settlement values.

16 A. It certainly looks like that. I accept your
17 representation.

18 Q. This is not a document that was created contemporaneous
19 with your original report, was it?

20 A. No.

21 Q. It's got a date of June 6, '05 in the top left hand
22 corner, correct?

23 A. Yeah, that it does. That's when this was printed out.

24 Q. What this document does is it explains the set of rules
25 that you used for figuring out which claims to put into your

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1 calculation of average settlement values for 2001, right?
2 A. Yes. Actually, I mean, it sets the rules generally that
3 we used, but in all prior years, over 90 percent of the claims
4 had a settlement year attached to it. So the issue is, is a
5 more important, and frankly more interesting, 2001, so that's
6 why we speak to 2001 because that's how the issue arose in the
7 deposition.

8 Q. And there are variables in the databases field in the
9 database for settlement year, correct?

10 A. That's right.

11 Q. And as you've indicated, sometimes the settlement year is
12 not filled in, but you know from other data on the record that
13 the claim actually has been settled; is that right?

14 A. Yes.

15 Q. And the database also has a field for expense year,
16 right?

17 A. Yes.

18 Q. And expense year is generally an indication of when the
19 claim was actually paid, right?

20 A. Yes.

21 Q. And then obviously you have various data and fields
22 relating to file year indicating when the claim was filed or
23 received by either the debtors or CCR, right?

24 A. Yes. And we derived essentially a composite variable as
25 to filed year and received year and service year.

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1 Q. Let me turn you, if I could, to page 15 of 16 in that
2 document. Are you there?

3 A. Yes.

4 Q. Okay. It's got four groupings of data on this page and
5 they're all for mesothelioma. I take it that's what the
6 "meso" on the left hand side means?

7 A. Yes.

8 Q. And then it has in the "set year" column, which I assume
9 means settlement year; is that right?

10 A. That's correct. And the 100 is obviously 2000 and 2001.

11 Q. Right. The numbers 90 through 101 corresponds to 1990 to
12 2001, correct?

13 A. That's right.

14 Q. And then moving a column to the right, it's got number of
15 settlements, right?

16 A. Yes.

17 Q. And what does that represent?

18 A. Well, those are the number -- that's our best estimate of
19 the number of mesothelioma settlements reached in 2001 --
20 well, there is a technical issue here, and you may be getting
21 to why is the 135 different from 138, I don't know. I guess I
22 need to explain this technical issue.

23 Q. Actually, I'm not getting there, so let me interrupt you
24 so we don't have to go off on a folic and detour.

25 A. That actually isn't precisely the number of claims

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1 settled, it's the number of records that have a settlement
2 year. Now, it's possible that the same case may have two
3 entries of a 2001 settlement because for some members of --
4 for some plaintiffs, they receive two payments, they may have
5 received one in an earlier year and one in a later year. I
6 don't know if there were any that received two payments in the
7 same year. But it's -- it's uncommon, but it happens.

8 And in constructing our database that we used for the
9 primary analyses, if a claimant got two payments, we add them
10 together and treat it as one. Here the issue we were
11 addressing, the one that Mr. Strochak raised in deposing me,
12 was an inquiry a table in my rebuttal report where
13 we essentially had a matrix of claims by settlement year and
14 filing year. That table, this table, are made without
15 aggregating the multiple payments because you can't do this
16 analysis if you've got a claim that, for example, was settled
17 in 2000 and had a payment in 2000 and 2001, you no longer can
18 construct a table because that case gets two payments, you
19 know, what year did it settle, what year did it get expensed.
20 So, we just treated each record without having aggregated it
21 and that's why there is slight -- another reason why there is
22 slight differences between this table and the numbers reported
23 in my first report.

24 It's an arcane issue necessary to do this
25 presentation, and the only reason I'm troubling the Court with

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1 it now is in response to Mr. Strochak's question that number
2 settled really represents the number of records recording a
3 settlement, and it is possible that the number of plaintiffs
4 who settled in that year may be a bit less than that because
5 they may be represented a couple times in there. The net
6 effect of our not aggregating it is to produce lower averages
7 because there is one case in here, Mr. Henderson, that got --
8 he may be in the 2001 group who received three different
9 payments. And I think he is in the 2001 settlement. He
10 received a payment of 625 -- \$650,000, \$325,000, \$325,000.

11 We treat that as three different settlements for
12 purposes of this table. In fact, he got one, what is it,
13 1.35 -- \$1.3 million, just it was broken down into three
14 different payments. So by disaggregating in this way we've
15 slightly understated the average, but that's why, I'm sorry to
16 go on this diversion, but you asked me what that number means
17 and it isn't quite what it seems, and I've tried now to
18 explain it.

19 Q. It's actually the next column I was really interested in.

20 A. I don't have another answer.

21 Q. The end cause column, that's the number of records that
22 actually have a positive settlement value in that; isn't that
23 right?

24 A. It's it is same issue. This may be slightly more than the
25 number of individuals who had a settlement, this is the number

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1 of records that were there.

2 Q. So you've got four different sets of rules here on this
3 column, correct? And I think you told me in your deposition
4 that the first rule you went on, that is after we corrected
5 the problem about expense year, the first rule was to just
6 look and see if this there was a settlement date in the
7 database, correct?

8 A. Yes, that's the first of three rules actually, but yes.

9 Q. That's right. So in the block there that has the meso
10 settlement year label on it, what we show in the number of
11 positives column is 65 positive settlement value records in
12 the database that actually had a settlement year of 2001,
13 correct?

14 A. Yes.

15 Q. And then the next block down is the expense year column,
16 and I believe you told me that if there was no settlement year
17 in the database, you reverted to expense year, correct?

18 A. That was the -- yes, we used expense year if we didn't
19 have settlement year.

20 Q. And then moving down the page, mesothelioma file year,
21 you have a third rule where you impute a year, correct?

22 A. Yes.

23 Q. And your --

24 A. Well, expense years is also an imputed year.

25 Q. Why is expense years imputed? I mean, wouldn't the

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1 record actually reflect an expense year of 2001?

2 A. Yes, but it's for cases when there is no settlement year,
3 so we're imputing that the settlement year is the same as the
4 expense year. The imputation is using a different variable to
5 provide an expense year number when it's missing.

6 Q. So you've assumed that for the 119 records with positive
7 settlement values and no settlement year where they reflected
8 an expense year of 2001 that's what you've put into your
9 calculation, right?

10 A. I'm sorry, could you repeat the question?

11 Q. Yeah, it wasn't a particular good one. I apologize.

12 A. I was actually looking at a table, so.....

13 Q. Your second rule says that if you have an expense date of
14 2001 and a blank in the field for settlement date, you put
15 that claim in 2001 for purposes of calculating your settlement
16 averages?

17 A. Yes, that's explained on the first page of Exhibit 92.

18 Q. So, totaling this up, so far we've got 65 records with an
19 actual settlement year of 2001 reflected in the database,
20 we've got another 119 records for which you've imputed a
21 2001-year based on the fact that they had an expense year of
22 2001?

23 A. Yes.

24 Q. Okay. Now you've got a file year calculation also, right?

25 A. Yes.

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1 Q. And the filed year calculation basically says if I don't
2 have either settlement year or expense year data, you look to
3 your file year, right?

4 A. Yes.

5 Q. And if your file year plus two is greater than or equal
6 to 2001, you put that in 2001 for calculating your settlement
7 averages?

8 A. I think we also took if it was a 2000 or 2001 settlement,
9 we also put them -- excuse me, let me start again. If it was
10 filed in 2000 or 2001 and it settled, obviously it had to
11 be -- if it were filed -- let's start again, yet. If this was
12 filed in 2001 and it was a settled claim without a settlement
13 year or an expense year, it had to have been a 2001 settlement
14 because you know there is no settlements after 2001. If it was
15 filed in 2000 and didn't have an expense year or settlement
16 year, we also assumed that they were settled in 2001 as well
17 as the cases filed in 1999. So, there is a -- today generally
18 it's a two-year rule, but, you know, we came up against a
19 deadline, there were no claims settled after 2001, so anything
20 that was filed from '99 to 2001 I believe is treated as a 2001
21 settlement.

22 Q. And then let's go up to the first block, the "meso any"
23 block, that represents a total of 225 records, right, with a
24 positive value?

25 A. We're on page 15. 225, yes.

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1 Q. So that's all your claims, that's the universe, right?

2 A. That should be.

3 Q. So of the 225 records with positive value that could go
4 into 2001, under your rules only 65 of them have an actual
5 settlement year filled in in the database of 2001; is that
6 right?

7 A. If that was -- yes, that's correct.

8 Q. Now in imputing your -- in figuring how to impute a year
9 into which to put your claims, you believe that it's a general
10 principle of forecasting that you would do such an exercise,
11 correct, that you have to put your claim somewhere, so you
12 have to use an imputation process, right?

13 A. You could choose to ignore those claims. It's an
14 alternative way to do it. I don't regard this as a general
15 principle of forecasting, it's the steps that we did here.
16 Typically, there is a lot of imputation in forecasting.

17 Q. Like imputing death year, for example, that's another
18 example of an imputation that you might do similar to this
19 exercise, correct?

20 A. You can, you can make steps of imputation for whatever
21 variable you need depending on what you need it for and how
22 sensible your imputation was, but sure, that's another
23 possibility.

24 Q. Now, you indicated before that the observed data for '97
25 through 2001 showed no increase for nonmalignant claims,

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1 right?

2 A. It didn't show much of a trend of any sort, no, that's
3 correct, I agree with that.

4 Q. And you indicated the same was true for the other cancer
5 claims, right?

6 A. I think that's -- I'd have to go back and look at it, but
7 I think that's all right.

8 Q. And on the lung cancer you saw no -- let me take that
9 back. Lung cancer, you pointed to the last two years of data
10 suggesting some type of increase, right?

11 A. Well, it was a pattern over the last four years, but yes.

12 Q. Let's done to Slide 16 in your book.

13 A. Let me put this away for a moment.

14 Q. Sure. It's heavy.

15 A. It's awkward. I have 16, yes.

16 Q. This is a process, step two in your settlement average
17 calculation, this is the process where you hung the value for
18 the three other disease categories on the mesothelioma
19 averages, correct?

20 A. What's specifically on 16 is some data that supports the
21 reasonableness of that step, it isn't the actual calculation.

22 Q. That's right, the actual calculation doesn't matter
23 because at the end of the day you disregard it and revert to
24 the scheduled TDP values, right?

25 A. Oh, I disagree entirely with that statement.

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1 Q. Isn't that where the actual numbers come from?

2 A. The calculation is important in deriving a value, it's a
3 critical step, it's a central step for deriving the values of
4 the diseases, which I then compare with the TDP values which
5 were derived using precisely the same method, using the ratios
6 of mesothelioma, lung cancer, other cancer nonmalignant
7 settlement values based on Turner & Newall actual data, but
8 it's precisely the same steps in both cases, it's just that
9 for the TDP I started with a \$200,000 value for mesothelioma
10 and here I started with a \$210,000 value. In both, in both
11 estimates, both of which I did, the calculation of the ratios
12 and the use of ratios is an important central step and it
13 needs to have a rational basis for it, which I've demonstrated
14 with this table.

15 Q. But the ratios aren't the numbers that you actually used
16 to derive your forecast average settlement values correct?

17 A. That's wrong.

18 Q. You don't plug those numbers into any formula to come up
19 with your average settlement value, do you?

20 A. That's wrong.

21 Q. Okay, let's go through it. Let's turn to Slide 18, if we
22 could. Slide 18 is taken from the proposed trust distribution
23 procedures, correct?

24 A. These are the scheduled values for the TDP for Turner &
25 Newall and the proposed plan, yes.

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1 Q. Lung cancer, is 42,500?

2 A. One of two lung cancers is 42,500.

3 Q. That's right, the other one is 12,000?

4 A. That's correct.

5 Q. And a what you do is you put in on the next page, Page

6 19, 32,000, correct?

7 A. 32,000 is the average for the two lung cancer categories

8 and it is the number that I derived using this hanging process

9 I describe. You are reversing the order. The 32 is the

10 derived number using the same methods for the TDP process as I

11 used here for this first step in the forecasting process.

12 Having gotten 32, then I made a judgement about what's an

13 appropriate ratio for the two lung cancer categories looking

14 to the other TDPs that had been constructed in other asbestos

15 bankruptcies. That's the steps of the process, but it is

16 based upon starting with the \$200,000 for meso and looking at

17 what was the historic ratio between meso and lung cancer

18 claimants for Turner & Newall.

19 Q. I understand, Dr. Peterson, that you looked at the data

20 on pages 16 and 17 of your slides in reaching your

21 conclusions, what I'm focus dollars on is the actual

22 calculation, that is, the equation of how we get from point A

23 to point B. And my point, sir, is getting to the numbers on

24 page 19 of your slides, the calculated information about other

25 defendants on pages 16 and 17 is not part of the equation that

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- 1 you use to derive those values; is that right?
- 2 A. This specific calculation on 19 does not use any of the
3 numbers from what, Exhibit 16 you're talking about? That's
4 correct.
- 5 Q. And for the other cancer, if we look at page 18, other
6 cancer from the TDP scheduled values is 14750 and that's
7 exactly the number on page 19, right?
- 8 A. That's right.
- 9 Q. And you deflate the 2001 dollars and you come up with
10 13941, right?
- 11 A. That's right.
- 12 Q. And the nonmalignant number is, again turning to page 18,
13 the nonmalignant number is a composite of the last three lines
14 of the TDP schedule values? Excuse me, the last four lines;
15 is that right?
- 16 A. I'm sorry could you repeat that question?
- 17 Q. Sure. Let's look at page 18.
- 18 A. I'm looking at it.
- 19 Q. Categories 1, 2, 3 and 4 working up from the bottom.
- 20 A. Yes.
- 21 Q. Those are the nonmalignant disease categories, right?
- 22 A. No.
- 23 Q. How am I wrong?
- 24 A. One also includes some cancers. It's not -- I don't
25 regard it as a nonmalignant category, it's essentially for

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1 people that have some minimal evidence of an asbestos-related
2 disease such that they would get past a summary judgment
3 motion, but it could be any disease other than mesothelioma.
4 That's what the trust distribution procedures describe it as
5 and that's how I regard it in doing forecasts of TDP values,
6 that's how I treat it.

7 Q. Tell me how you get from those four values in the
8 schedule in the TDPs on page 18 to the \$7,000 disease average
9 reported on page 19.

10 A. There is two problems within the question. One is I don't
11 use the \$400. Like I just said, it's a different category.

12 Q. Okay.

13 A. The category 2, 3 and 4 related to the weighted average
14 7,000. But what I did is I calculated a \$7,000 value by
15 starting with \$2,000 -- \$200,000 for mesothelioma and looking
16 at Turner & Newall's own experience, what was the ratio of
17 mesothelioma values, settlements historically in 2000/2001 to
18 nonmalignant averages and it is essentially the nonmalignant
19 values are 3.5 percent of the mesothelioma values. So that
20 gives me the \$7,000. Now I've got the \$7,000.

21 And then I go -- I suggest to the committee how to
22 divide up, how to calculate appropriate scheduled values for
23 each three of these categories of diseases that comes close to
24 the \$7,000. You are reversing the order. The order of doing it
25 was doing the calculation -- the calculations on the first

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1 column in black on Table 19 were done in exactly the same way
2 that I made the calculations in my report here, they're based
3 on starting with mesothelioma and looking at the historic
4 relationships for Turner & Newall.

5 Now, the Turner & Newall historic relationships are
6 not represented on page 16, I don't believe. Maybe it's one
7 of the other defendants, I just don't recall. But I used the
8 T&N historic averages to calculate the column on Table 19 that
9 you've drawn my attention to and I also used it to do the
10 calculation that are on Table 17 in the last row. It's
11 precisely the same calculation. With rounding, the numbers
12 show the same ratios, it's just one starts with -- when I
13 derived the TDP I used \$200,000 average because the committee
14 wanted to be conservative with regard to the values to use for
15 mesothelioma.

16 In this report I used a \$210,000 average because it
17 had the specific calculation, basis in calculation that I
18 described here. Frankly, it doesn't make much difference
19 whether you use the one or the other, but they're both done
20 the same way, and with the same intention, both done by me.
21 They were done at different times. And I used the \$200,000 and
22 then reduced it even further because I wanted to be
23 conservative, I wanted -- I wanted -- did not want you to come
24 in here and you tell me: Dr. Peterson, aren't you are taking
25 the highest value you could have calculated for mesothelioma?

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1 And these are the cases, because I wanted to protect myself
2 from that kind of cross-examination and I wanted the court to
3 believe that I was doing reasonable forecasts. And so I used
4 conservative forecasts that under, rather than overestimated,
5 consistent with all of my entire history of forecasting
6 asbestos liabilities. I strive to underestimate rather than
7 overestimate, and that's the history of what my forecasts are.

8 Q. Except in Judge Fullum's courtroom.

9 A. We'll see what happens with Owens Corning's future
10 claims. The future may prove me right.

11 Q. Let me just follow up on that while I have you. You said
12 several times before that you didn't have an opportunity to
13 present any rebuttal testimony in Owens Corning. That's not
14 because Judge Fullam precluded it, is it?

15 A. Oh, no, he didn't prevent my rebuttal. It wasn't my
16 decision, I'm just a witness.

17 Q. Let's focus on two things you just said. The first you
18 said was that your discussion with the committee was an effort
19 in some way, I don't mean to mischaracterize your testimony in
20 any way, but in some way was an effort to divide up or
21 allocate the value; is that right?

22 A. I don't understand your question. I don't think it
23 comports with what I testified.

24 Q. Well, I heard you say something along those lines, and
25 perhaps you caught yourself before you got all the way out,